



Department of Energy
National Nuclear Security Administration
Office of the General Counsel
P. O. Box 5400
Albuquerque, NM 87185



August 14, 2019

SENT VIA EMAIL

78118-50273101@requests.muckrock.com

Mr. Martin Pfeiffer
MuckRock News
DEPT MR 78118
411A Highland Ave
Somerville, MA 02144-2516

Dear Mr. Pfeiffer:

This letter addresses your request of educational/scientific category for fee purposes of your July 29, 2019, Freedom of Information Act (FOIA) request. You requested copies of the “Pu Aging report referenced in the Federal Register Notice of 9/24/18 by the National Nuclear Security Administration (NNSA), at 83 FR 48297 pp. 48297 – 48298, of a closed meeting of the Defense Programs Advisory Committee (DPAC), to wit: Tentative Agenda: New Member Swearing In; Defense Programs Programmatic Updates; Path Forward on Pu Aging Report; Lessons Learned from PuSC; Update on High Performance Computing Subcommittee; Update on SRP Review Subcommittee; Conclusion.”

In your FOIA request you identified yourself in the educational/scientific category for fee purposes. The agency asked you for clarification regarding the intended use of the requested documents, to which you provided a letter from Dr. Les Field, Professor of Anthropology at the University of New Mexico, which states you intend to use the material for research in support of your dissertation. The documentation you provided is not on official letterhead; nor does the documentation adequately explain how the requested material will be used for educational purposes. Additionally, a student is not entitled to categorization as an educational/scientific requester if he or she will also use the requested records for personal or commercial use.

Your request to be categorized as an educational/scientific requester is denied. We have determined that your use of the requested records is for your commercial interest or profit because you also charge a fee to patrons of your website for viewing/accessing records provided by the agency to you. Based on our determination you are categorized as a commercial use requester. Therefore charges will be assessed to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Our agency will recover the cost of searching for and reviewing records even if there is ultimately no disclosure of records. This request is currently pending and processing will begin once we are notified of your willingness to either pay all fees, or notify us of the exact dollar amount of fees you are willing to pay, in accordance with 10 CFR § 1004.4(e). If we do not receive a response regarding your willingness to either pay all fees or your willingness to pay fees up to a stated dollar amount by August 21, 2019 we will consider your request invalid and will close it with no further action.

You may appeal our denial of fee category pursuant to 10 CFR § 1004.8(a). Such an appeal must be made in writing within 90 calendar days after receipt of this letter, addressed to the Director, Office of Hearings and Appeals, HG-1, U.S. Department of Energy, 1000 Independence Avenue SW, L'Enfant building, Washington, DC 20585. Your appeal must contain a concise statement of the grounds for the appeal and a description of the relief sought. Please submit a copy of this letter with the appeal. Please clearly mark both the envelope and the letter "Freedom of Information Appeal." You may also submit your appeal by e-mail to OHA.filings@hq.doe.gov, including the phrase "Freedom of Information Appeal" in the subject line. Thereafter, judicial review will be available to you in the District of Columbia or in the district where (1) you reside, (2) you have your principal place of business, or (3) the Department's records are situated.

You may contact me, NNSA's FOIA Public Liaison at 1-866-747-5994, or by mail at Department of Energy, National Nuclear Security Administration, Office of the General Counsel, PO Box 5400, Albuquerque, NM 87185, for further assistance and to discuss any aspect of your request.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at (202) 741-5770; toll free at 1-877-684-6448; or facsimile at (202) 741-5769.

If you have questions concerning the processing of this request, please contact Erica White by e-mail at Erica.White@nnsa.doe.gov, or write to the address above. Please reference Control Number FOIA 19-00295-EW in your communication.

Sincerely,



Pamela Arias-Ortega
Authorizing & Denying Official